

REMARKS/ARGUMENTS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 1-53 were pending in the application and were rejected.

Specification:

Paragraph 1 of the Specification has been updated with serial numbers to properly identify Related Applications.

The paragraph beginning on page 11, line 9, has been amended to include the incorporation by reference of U.S. Patent Application Serial No. 10/822,940, filed on April 13, 2004, entitled: DERIVATIZED NANOPARTICLES COMPRISING METAL-ION SEQUESTERANT, by Joseph F. Bringley, which merely repeats the incorporation by reference of this document that is recited on page 1, as can be seen in the amended paragraph of page 1 above.

35 U.S.C. § 112 - First Paragraph:

In paragraph 3 on page 2 of the Office Action, claims 1-53 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The examiner stated:

... the Applicant does not provide sufficient guidance in the instant disclosure at the time of the invention for one having ordinary skill in the art to select from an infinite number of possible particle materials, and an infinite number of functional groups, in order to obtain a derivatized particle having the claimed stability constant without performing undue experimentation.

Applicants hereby traverse the examiner's basis above for rejection of the claims. The table of page 9 of the patent specification, and its related description, defines and explains several materials having the claimed stability constant, i.e. greater than 10^{10} with iron (III). Beginning at the bottom of page 8 through page 9 the stability constant is explained and defined with several examples in the table shown on page 9. The examples are discussed at pages 10 and 11. Because several preferred examples are taught in the present specification, there is no basis for asserting that persons skilled in the art are not provided guidance by the present

specification or that undue experimentation is necessary because the preferred materials meeting the claimed characteristics are listed in Table 1. Moreover, the paragraph at page 7, line 14 through line 32, provides further examples of preferred derivatized particles.

In addition to these teachings in the present specification, the prior filed U.S. Patent Application Serial No. 10/822,940, filed on April 13, 2004, entitled: DERIVATIZED NANOPARTICLES COMPRISING METAL-ION SEQUESTERANT, by Joseph F. Bringley; identified at pages 1 and 12 of the present application, and incorporated therein by reference, describes additional background information for preparation of derivatized nanoparticles, beginning at paragraph [0045].

35 U.S.C. § 112 - Second Paragraph:

In paragraph 5 on page 3 of the Office Action, claims 3, 4, 33, and 34 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In paragraph 6 on page 3 of the Office Action, claims 9 and 39 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants have deleted the claim terms “high affinity” and “high selectivity” from claims 3, 4, 33, and 34 and replaced them with numeric limits as defined in the patent specification as shown in Table 1 and its accompanying description.

Claims 9 and 39 have been amended to properly recite alternative expressions.

Claims 5, 6, 13, 21, and 26 have been canceled.

New Claims:

Applicants have added new claims 54-58 directed to a bandage. Figs 1-6 and their related description all illustrate and describe a bandage. Support for the newly submitted claims are found in particular in Figs. 4-6 and their related description beginning on page 18, line 8.

Double Patenting:

In paragraph 8 on page 4 of the Office Action, claim 1-53 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 12-35 and 40-62 of copending U.S. Patent Application Serial No. 10/936,910.

In paragraph 9 on page 5 of the Office Action, claims 1-8, 13, 22, 23, 25, 27, 28, 30-38, 44-46, 48, 50, 51 and 53 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4, 6, 10-12, 15-18, 27-31 and 34-47 of copending Application No. 10/823,443.

In paragraph 10 on page 5 of the Office Action, claims 1-13, 16, 22, 23, 25, 27, 28, 30, 31, 33-42, 44-46, 48, 50, 51 and 53 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22-24, 27, 29-42 and 45-57 of copending U.S. Patent Application Serial No. 10/822,940.

In paragraph 11 on page 5 of the Office Action, claims 1-8, 10-15, 17-23, 25, 27, 28, 30-38, 40-48, 50, 51 and 53 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11, 13, 14, 16-22, 28, 30-33 and 46-50 of copending U.S. Patent Application Serial No. 10/823,446.

In paragraph 12 on page 6 of the Office Action, claims 1-10, 13, 17-23, 25 and 28 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15, 18, 22-28 and 30-33 of copending U.S. Patent Application Serial No. 10/823,453.

In paragraph 13 on page 6 of the Office Action, claims 1-2, 5-28 and 30 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 6, 10-11, 16-18, 25-28, 31-34, 37-39 and 43 of copending U.S. Patent Application Serial No. 10/822,929.

Applicants submit herewith terminal disclaimers to obviate any potential double patenting rejections.

35 U.S.C. § 102(b):


In paragraph 15 on page 7 of the Office Action, claims 1-16, 22-23, 25, 27, 28 and 30 were rejected under 35 U.S.C. § 102(b) as being anticipated by Engle et al.

Applicants respectfully traverse the examiner's rejection of the claims under 35 U.S.C. § 102(b) over Engle. Engle is directed to coatings having a high abrasion resistance, and suggests applying such coatings to airplanes, automobiles, floors and walls (see column 9, line 31+), and as an antigraffiti surface (column 1, line 60). Nowhere does Engle recognize antimicrobial properties of her coating. Engle nowhere recognizes application of her invention to biological or physiological fluids. Hence, Engle does not provide a basis for rejecting any of the present claims because each pending claim is directed to inhibiting the growth of microbes in physiological fluids.

The presently pending claims have mostly been clarified for consistency, antecedent bases, clarity, and grammar. None of the amendments have been made to distinguish over Engle for the reasons stated above.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,


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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.